

## REMARKS

Applicant respectfully requests reconsideration of the present application in view of the reasons which follow.

The Examiner objects to the disclosure under 37 CFR § 1.163(a) and rejects the claim under 35 U.S.C. 112, first and second paragraphs, as being unsupported by a clear and complete botanical description which distinguishes the cultivar from related known varieties. Favorable reconsideration and allowance of the application is requested in view of the foregoing amendments and the remarks which follow.

In order to expedite the Examiner's review of this response, applicant will address each of the Examiner's objections in the order they were discussed in the Official Action.

A. The specification has been amended at page 2, between lines 12 and 13, to import a comparison between the new cultivar and the parental cultivars. In addition, the specification has been amended at page 1, 4<sup>th</sup> full paragraph to import the breeder designations for the parental cultivars.

### Requirement for Information Under 37 CFR 1.105

In compliance with the requirement for information under 37 CFR 1.105, and in accordance with the duty of disclosure under 37 CFR 1.56, Applicant hereby submits an Information Disclosure Statement and PTO/SB08 with a copy of the following foreign Plant Breeder's Rights grants: 1) Community Plant Variety Right EU 8444, granted November 5, 2001; 2) New Zealand Plant Variety Right, granted September 2, 2002; 3) Polish Plant Breeder's Right, granted February 11, 2004; 4) South African Plant Breeder's Right, granted March 20, 2003; and 5) Australian Plant Breeder's Rights, granted March 8, 2004.

The instant plant was neither sold nor made publicly available anywhere in the world more than one year prior to the U.S. provisional application filing date of June 28, 2002.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully

requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should an improper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

Date: September 7, 2004

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